

GMB

U N I O N

Congress 2021
CEC Special Report on
Procurement and
Spending

GMB Union
On your side

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CEC Special Report on Procurement and Spending

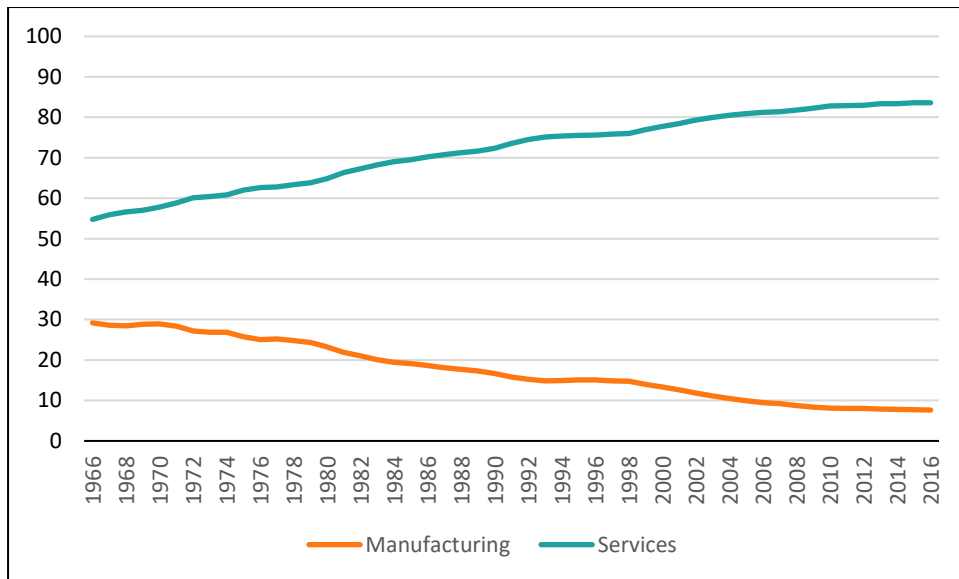
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1. Introduction

- 1.1 The UK's economy has changed fundamentally over recent decades. Before the pandemic struck, more people were recorded as working than ever before, but the quality of work has been undermined. The national accounts said that we are richer than ever before, but some areas have never recovered from the decline (and in some cases destruction) of traditional industries. Reforming our approach to spending and procurement will be a vital component of how we build an economy that is fairer and more rewarding than the old.
- 1.2 The coronavirus pandemic has plunged us into a new recession and ruthlessly exposed deep-seated inequality and discrimination in our economy and our society. While key workers were denied proper PPE, a small group of well-connected profiteers were awarded lucrative contracts by their cronies. There has been no real accountability for a series of procurement scandals which have seen billions wasted while key workers were left without the PPE they needed.
- 1.3 The dominance of the service sector has been accompanied by a drastic reduction in jobs in the manufacturing and production industries. Five million manufacturing jobs have been lost in the last fifty years. Manufacturing has fallen from a third of jobs in the mid sixties to around eight per cent of employment today. A nation with a once-extensive textiles industry was unable to meet its own needs for PPE. GMB is proud to represent workers in both services and manufacturing, and we support a rebalancing of the economy to rebuild our industrial base.

Fifty years of UK manufacturing and services employment, as percentages of all jobsⁱ



- 1.4 The effects of poor procurement processes can be seen around us. More than 320 combined years of shipbuilding history were almost extinguished at Harland and Wolff Appledore yards while the Ministry of Defence prepared to send the £1.5 billion Fleet Solid Support shipbuilding contract overseas. The vast majority of the jackets for the new £1.4 billion Neart Na Gaoithe windfarm are being built in Indonesia, while BiFabs yards have been reduced to a shadow of their former selves. Ministers claim that they cannot afford public sector pay rises after wasting billions on a failing contract tracing system.
- 1.5 At the same time, inadequate funding and contracts for social care and other public services have encouraged a race to the bottom. In many cases, contracts are not sufficiently resourced to even fully fund the National Minimum wage. Government policy has focused on short-term and narrow assessments of cheapness without regard to long-term costs, leading to a system that knows the price of everything and the value of nothing.
- 1.6 Against this backdrop, there has been demand for work by GMB on how public spending could be reformed to secure good quality jobs in the UK. The Westminster Government is also proposing changes to its procurement and subsidy rules now the UK has left the EU. A National Procurement Policy Statement – which would bind local authorities in England as well as UK Government Departments – is due to be published later this year.
- 1.7 The immediate economic outlook is frail. Even before the pandemic struck, the OBR estimated that business and government investment is 5.5 per cent lower than it would have been without Brexit uncertainty.ⁱⁱ In February 2021, 4.7 million jobs were furloughed and the claimant count has risen by 1.4 millionⁱⁱⁱ – with redundancies falling hardest on younger and low paid workers. As the nation faces competing visions of what the post-coronavirus economy should look like, now is the right time to set out our stall

on spending and procurement.

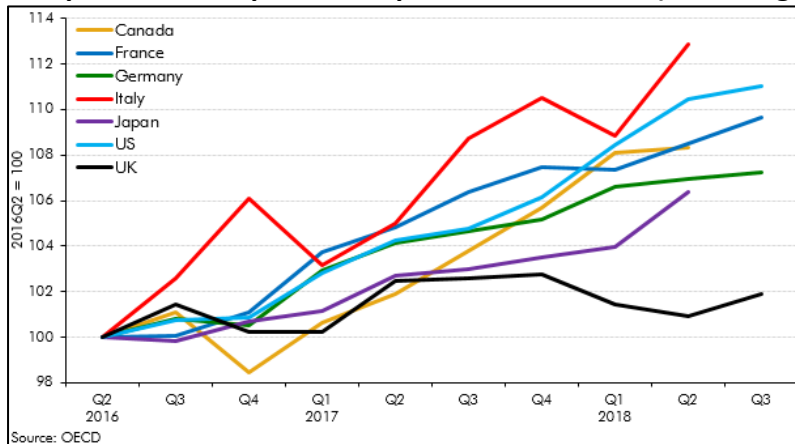
- 1.8 Some of the issues discussed in this report are not straightforward. Our international obligations which limit the UK's freedom of action did not end once the Brexit transition period finished. We can campaign to change those rules, but we are also bound to fight for our members who work in exporting industries whose livelihoods would be at risk if we walked away from those obligations without a new system in place.
- 1.9 GMB firmly believes that public services should be delivered directly by the public sector, under the relevant negotiated terms and conditions (see Congress 2018 CEC Statement on Outsourcing and Public Ownership). The collapse of Carillion and the coronavirus outbreak have exposed the fundamental failings of outsourcing – both patients and staff are significantly more likely to be infected in care homes that have been contracted out.^{iv} There is a historic opportunity to deliver the 'biggest wave of insourcing for a generation' promised by the Labour Party, particularly as PFI contracts begin to expire. In line with longstanding GMB policy and campaigns, we call for a national programme of insourcing and – in the meantime – better guidance for public authorities on their legal rights to insource services.
- 1.10 This Special Report sets out a GMB policy position for spending and procurement, including: the need to raise spending across our nations and regions as part of a real levelling up agenda; that examines the procurement rules we will work under now that the UK has left the European Union; argues that more could be done with the powers public bodies have now; and makes the case for reforms so we can have a system of rules-based local contents requirements, so that UK jobs can be secured in critical and vulnerable industries.

2. Public spending in the UK

- 2.1 GMB has long argued for higher public spending. Austerity was not over even before the pandemic struck: NHS trusts in England reported a combined deficit of £827 million in 2018/19,^v and local government faced a £6.5 billion funding gap by 2025.^{vi} Public sector wages had not recovered in real terms after a decade of freezes and caps, as reflected in the recent 'catch up' claims submitted by GMB and other public service unions.
- 2.2 While the UK is likely to emerge from the pandemic with a debt-to-GDP ratio that is unseen since the late 1950s. The former Conservative Chancellor George Osborne has already called for a return to the damaging politics of austerity.^{vii} However, the cost of servicing the national debt is at its lowest in over a hundred years and has actually fallen during the pandemic.^{viii} Instead of balancing the books on the backs of those who have risked the most during the outbreak, the UK should pursue a new economic model based on growth and investment instead.

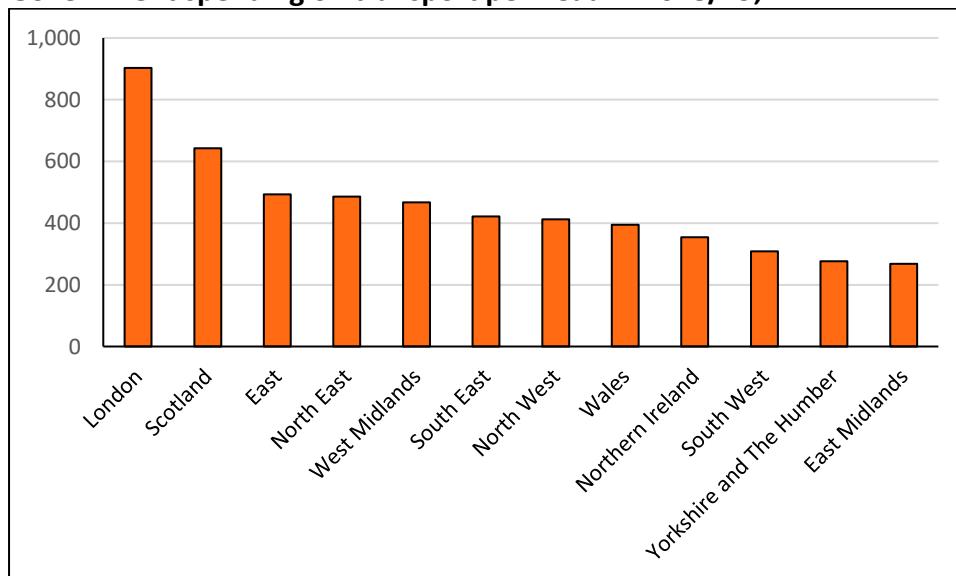
2.3 The UK historically has a poor record of delivering investment. Excluding the property market, OBR analysis of OECD figures shows that the UK has seen the weakest growth in investment in the G7 since the Brexit referendum. The think tank IPPR has argued that if spending up on public services was brought up to the same levels as similar European countries then austerity would effectively be reversed, and spending on health, education and social security would increase by £1,800 per person annually.^{ix}

Comparison of G7 public and private investment (excluding investment in housing)^x



2.4 Public spending is not distributed evenly: in fact, the disparities between the UK’s regions were believed to be more stark than in any other member of the EU.^{xi} To take one example, the current Government has set great store on the economic benefits of transport spending, but public spending on transport per head is more than three times greater in London than in the worst supported region (although this picture should be alleviated somewhat in future years through investment in vital strategic projects that GMB believes must proceed, including Sizewell C and HS2). It has been argued that public procurement rules, which focus on returns on a simple Gross Value Added per head measure, result in spending being targeted in areas that have already received the greatest investment.^{xii}

Government spending on transport per head in 2018/19, £^{xiii}



- 2.5 Some of the nations and regions worst served by current policies are also those most hit by decades of deindustrialisation. The Institute for Fiscal Studies has calculated that in the 1970s wages in the Midlands were slightly above the UK average, but now they have fallen to 6 and 9 per cent below the UK average in the East and West Midlands respectively. Wages in Wales and the North East have fallen further behind the UK average over the last forty years.^{xiv}
- 2.6 Even where the UK Government was able to spend money on direct support for industry and regions under EU rules, it mostly chose not to do so. In 2017, the UK spent just 0.37 per cent of its GDP on permitted state aid – this was half the EU average, and far less than France or Germany. By contrast, at the top of the scale, Sweden spent 6.7 per cent of its GDP on support for its industries and regions.^{xv}
- 2.7 In addition, where the Government has intervened to support particular technologies and ‘pick winners’, it has failed to support UK jobs and build strong domestic supply chains. As discussed in the accompanying Special Report on Energy, significant investment has been made in the offshore wind industry, but under a third of capital expenditure is reportedly placed with UK suppliers and the jobs return on investment is very low.
- 2.8 GMB does not believe that the answer to these disparities is to tear down London and the South East. Rather, we should prioritise bringing up spending levels in other nations, regions, and low-funded areas within regions, and bring overall public spending in line with comparable European countries.
- 2.9 We further believe that the decline of traditional industries, and the resulting loss of skilled and well-paid jobs, has been particularly concentrated in areas that are now sometimes referred to as ‘left behind,’ and that this trend has fuelled disengagement and a loss of faith in the political system by many.
- 2.10 The Westminster Government says that it is developing a ‘UK Shared Prosperity Fund’ to replace EU regional funds, but despite the UK having now ended the transition period, few details of the new scheme are available. It has been indicated that the overall level of funding will at least initially be lower than EU structural funds. The Government has indicated that the Shared Prosperity Fund will be directed from Westminster, with an implied loss of autonomy for the devolved administrations.
- 2.11 Ministers have also recently announced plans for a new central Cabinet Office unit to coordinate procurement policies across government, alongside vague plans for a new ‘independent’ body to oversee decisions of subsidy awards. There are no stated plans for union representation, or even consultation rights, for either body. In submissions, GMB has stressed the dangers of democratic accountability being replaced by new organisations that are remote, technocratic, and politicised.

2.12 Procurement and other relevant areas of policy (including food standards and environmental standards) were devolved in the late 1990s, within the wider framework of EU rules. Yet the Westminster Government's policy is that there must be 'mutual recognition' within the new UK internal market – in other words, a product sold in one part of the UK must be sold in another (with some exceptions in Northern Ireland). In light of fears that the UK is engaging in a 'race to the bottom' on standards in order to agree rushed trade deals, GMB has opposed any loss in autonomy for the devolved administrations.

2.13 GMB calls for:

- Full funding for public service contracts and direct services
- Regional funding to initially at least match and then to exceed the levels under the previous EU system
- No loss of power or autonomy for the devolved administrations under trade deals or new spending, procurement and subsidy regimes

3. Covid procurement scandals

3.1 The coronavirus outbreak exposed the reduction in the capacity of the UK's public services and manufacturing base. Our hollowed-out services were left precariously exposed, and Government had little understanding of how domestic manufacturing capacity could be reutilised to produce PPE and medical equipment. The crisis represented a moment when the rundown in this essential capacity could be reversed: instead, the Government's record has been characterised by incompetence and crony contracting.

3.2 Staffing for NHS Nightingale hospitals was passed to outsourcing firms, instead of being provided under the terms of the Agenda for Change national agreement. While NHS and care workers fashioned makeshift PPE from binbags, £156 million was spent on a private equity contract for 50 million facemasks that provided no protection against Covid-19.^{xvi} Private contractors provoked outrage after they sent free school meals parcels that fell woefully short of basic nutritional standards.

3.3 A National Audit Office investigation into the Government's handling of procurement during the pandemic found that, even allowing for the extraordinary circumstances of the pandemic, Ministers had 'diminished public transparency' and fallen short of the 'standards that the public sector will always need to apply if it is to maintain public trust.'^{xvii} Trust in the Government was further undermined as the true scale of the 'cash for access' lobbying scandal emerged.

3.4 There is no shortage of examples: a former pub landlord with no experience of providing medical supplies was able to gain a lucrative NHS contract for medical vials after messaging Health Secretary Matt Hancock directly.^{xviii} The High Court subsequently found that the Government had acted unlawfully when it failed to advertise details of dozens of Covid contracts that were awarded without competition, including for PPE.^{xix} We note that Labour Party research has found that almost £2 billion worth of public contracts have been awarded to companies linked to Conservative Party donors since the start of the crisis.^{xx}

'Covid-19 has unleashed state corruption on a grand scale, and it is harmful to public health. Politicians and industry are responsible for this opportunistic embezzlement.'

The BMJ (formerly the British Medical Journal)

13 November 2020^{xxi}

3.5 Alongside this scandalous waste of public resources, it was revealed that former Prime Minister David Cameron had launched a lobbying blitz of Ministers on behalf of the now collapsed financial services firm Greensill Capital, which was given a role in paying advances on NHS wages. Cameron – who once said that lobbying was ‘the next big scandal waiting to happen ... the far-too-cosy relationship between politics, government, business and money’^{xxii} – pushed for Greensill to have access to the Government’s Covid Corporate Financing Facility funds.

3.6 The collapse of Greensill could still have serious consequences for our members. Greensill was one of the main financial backers of Liberty Steel, the future of which is in doubt. Greensill also reportedly planned to convert future NHS wages into bonds to be sold on the international market.^{xxiii} Yet, without any apparent sense of irony, the Government has appointed a private banker with links to Conservative Party donations to lead the investigation into the Greensill lobbying scandal.^{xxiv}

3.7 We note the package of reforms proposed by Shadow Cabinet Office Minister Rachel Reeves in February 2021, including: ‘introducing the biggest wave of insourcing of public services back in-house for a generation’; extending the Freedom of Information Act to providers of public services; and introducing a new Commissioner to replace the ineffective ‘anti-corruption tsar’ role created by the Conservatives.

3.8 GMB:

- Condemns the misuse of public funding during the coronavirus pandemic; and
- Calls for a full and independent inquiry into the improper awards of contracts during the coronavirus outbreak, including but not limited to the Greensill

lobbying scandal; and

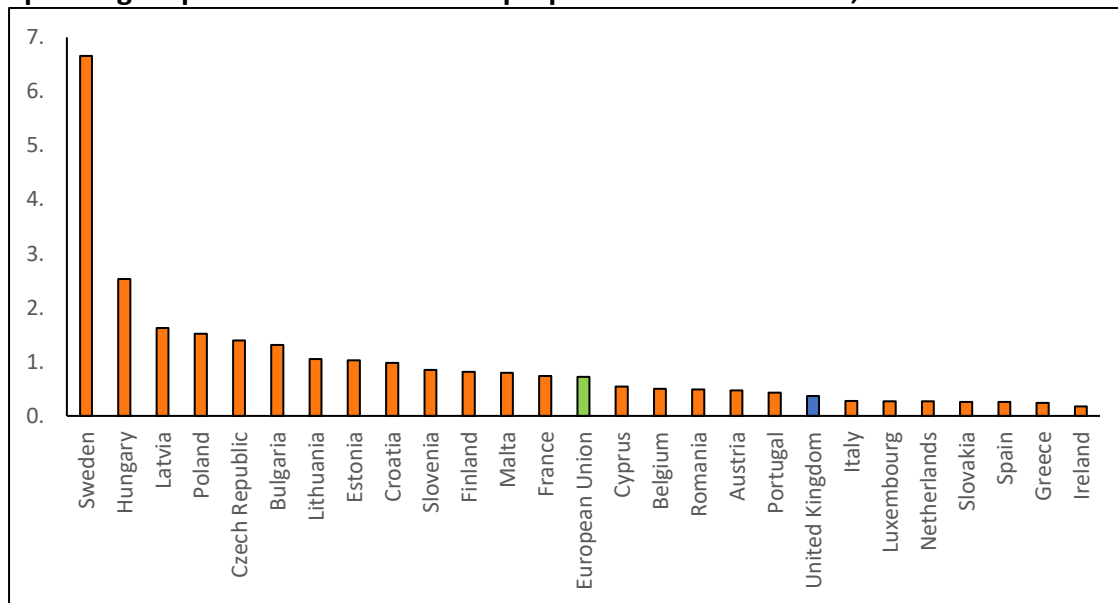
- Welcomes the package of reform proposals announced by the Labour Party in February 2021.

4. Restrictions on spending and procurement after Brexit

The Trade and Cooperation agreement

- 4.1 The UK's membership of the EU imposed certain restrictions on procurement and spending, particularly around the use of subsidies to support specific companies or industries. However, GMB has long argued that Ministers in successive governments also routinely 'hid behind' EU rules. Interventions were possible within a range of categories: such as spending on infrastructure; training; regional aid; and environmental protection. Our spending on such 'permitted state aid' was well below the EU average. For politicians who have an ideological aversion to state intervention, it has suited their purposes to claim that they had less power than was often the case.

Spending on permitted state aid as a proportion of GDP in 2017, %^{xxv}



- 4.2 On 24 December 2020, the UK and the EU agreed a Trade and Cooperation Agreement (the TCA). The TCA requires the continuation of features of EU procurement rules. Among the terms of the TCA are requirements for publication of contract notices, 'no less favourable' treatment for EU suppliers compared to UK suppliers, and a means for prospective suppliers to challenge an award decision (a 'review procedure'). The Government is currently consulting on how these rules will be implemented.
- 4.3 The TCA states that public bodies 'may take into account environmental, labour and social considerations throughout the procurement procedure.'^{xxvi} This provision will be based on the social value framework that is discussed in the next section. However, only limited detail of the Government's intended approach is currently available.

- 4.4 While the TCA requires that the UK must introduce a new system of subsidy controls, the agreement does provide for subsidies to be awarded in cases of ‘social difficulties or distributional concerns,’ and for rescue packages for individual firms ‘if they contribute to an objective of public interest by avoiding social hardship or preventing a severe market failure, in particular with regard to job losses or disruption of an important service that is difficult to replicate.’^{xxvii} However, the Government’s stated plans make little allowance for such interventions. GMB has argued that Ministers are once again showing an unwillingness to fight for jobs in the UK.^{xxviii}

The World Trade Organisation

- 4.5 The UK’s international obligations do not end with the EU. Our commitments to the World Trade Organisation, which predate our membership of the EU, also impose significant restrictions, which have not received the same public attention. The WTO’s rules make little allowance for the sort of social or environmental considerations that GMB would wish to see.
- 4.6 Congress has received a number of motions over the years, including to Congress 2021, which call for UK-based companies to be preferred in tendering processes, or otherwise for a fixed percentage of contract awards to be domestic suppliers.
- 4.7 Unfortunately, such policies – which are sometimes known as ‘local contents requirements’ – are not compliant with the various WTO-linked treaties that the UK is a signatory to, with the notable exception of the defence sector for which specific exemptions exist. For example, the General Agreement on Tariffs and Trade (GATT), originally signed in 1947, states that:
- ‘No contracting party shall establish or maintain any internal quantitative regulation relating to the mixture, processing or use of products ... [that means they] must be supplied from domestic sources.’*
- 4.8 Similarly, the Trade-Related Investment Measures (TRIMs) agreement prohibits rules that require *‘the purchase or use by an enterprise of products of domestic origin or from any domestic source,’* and the Subsidies and Countervailing Measures (SCM) Agreement further prohibits *‘subsidies contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods.’*
- 4.9 Finally, the Agreement on Government Procurement (GPA), which is a voluntary treaty, commits us to *‘no less favourable treatment’* of other signatories’ products than the UK gives to *‘domestic goods, services and suppliers,’* and further commits the UK to not *‘treat a locally established supplier less favourably than another locally established supplier on the basis of the degree of foreign affiliation or ownership.’* The UK has now become a signatory to the GPA in its own right following the end of the transition period.
- 4.10 Local content requirements are a popular measure for building up industries, particularly in developing nations. A large number of new requirements were imposed in a number of countries in the aftermath of the financial crash – by one assessment, more than a

hundred new measures were created across the globe, including in WTO nations.^{xxix}

- 4.11 It is not difficult to find other, more longstanding examples of local content requirements being used by other nations. In the United States, for example, cargo ships that serve trade routes between US ports are required to be built domestically under legislation dating back to 1920, and the federal rail company Amtrak is required to purchase a certain number of new vehicles from home providers. The Buy American Act has required some degree of local content purchasing since 1933, although its provisions have been greatly weakened in practice under successive WTO treaties.
- 4.12 It is difficult to resist the conclusion that the United States enjoys a special status because of the WTO's reliance on the USA's continued membership. Our politicians have been too accepting of the existing rules, and they have not fought for equivalent protections for UK industry
- 4.13 Local content rules became particularly popular over the last two decades as countries seek to build up renewable energy manufacturing industries. This has led to a justified sense of unfairness in those countries, such as the UK, that have not put equivalent measures into place.
- 4.14 Unfortunately, independent assessment of these policies has found that almost none of the local content requirements that have been put in place around renewable energy were compliant with international law, and that they 'rarely can survive judicial scrutiny.'^{xxx} This assessment is borne out by high profile cases. In 2012, the state of Ontario's Feed In Tariff programme which tied wind subsidies to local contents was found to be unlawful.^{xxxi} India was found to be in breach of WTO treaties in 2016 when it tried to use local content requirements to build up its solar panel industry,^{xxxii} and in 2019 the similar programmes of eight American states were also found to be in breach.^{xxxiii}
- 4.15 The evidence points to the hard conclusion that, as things stand, it is likely that, even outside the EU, the introduction of similar requirements in the UK would be overturned, and our members' jobs in other exporting industries could be placed at risk. However, there is a growing coalition of interests who are promoting reform.
- 4.16 The blanket ban on local content requirements dates from an age the world was recovering from war and the free flow of trade was seen as a guarantor of peace. The rules date from a time before the negative consequences of globalisation, including deindustrialisation, were understood - but there are signs that the mood is changing. The new Biden administration is committed to:

'Work with allies to modernize international trade rules and associated domestic regulations regarding government procurement to make sure that the U.S. and allies can

use their own taxpayer dollars to spur investment in their own countries.^{xxxiv}

- 4.17 GMB believes that it is time for change. A crude prohibition against all local contents requirements can no longer be justified. It is clearly in the public and environmental interest for strong renewables manufacturing supply chains to be built up, and the UK should not be punished in perpetuity because our government and industry was slow off the mark. Local contents requirements should be an appropriate response where an industry faces unfair competition, such as in the steel industry which has been particularly badly hit by the dumping of cheap, subsidised competitors' products, especially as existing trade remedies procedures have not proved up to the task.
- 4.18 For all the WTO's many faults, the UK's economy is reliant on international trade, and the only large nation that has not joined the WTO (or is not seeking membership through observer status) is North Korea. Leaving the WTO would expose our members in exporting industries (and those who rely on imports) to punitive tariffs. We could not endorse a position that could lead to a dramatic rise in consumer prices and the wholesale destruction of our members' jobs in exporting industries.
- 4.19 We believe that the answer lies neither with the current blanket ban on local contents requirements, nor with a free-for-all that could see our members' employers locked out of key export markets where genuinely reciprocal trade exists. There is a clear case for employing local contents requirements where there is a strong social or environmental justification, such as in renewables manufacturing, or where our members jobs are being destroyed by unfair, artificially subsidised international competition, such as in steel. We should argue against special treatment for some countries and not others. Instead of special treatment for the USA, we should have a clear, rules-based system for local contents requirements that is open to all.
- 4.20 As a secondary issue, the WTO's rules do not prohibit local content *reporting* – which would take the form of suppliers of contracts above a certain value being obliged to publish the share of value that they are procuring from within the UK. This approach has been used to a limited extent for offshore wind. If UK content was regularly reported then we could put pressure on private sector contractors to make better use of UK supply chains. We would support a robust system of UK content reporting being included as a condition of major government contracts.
- 4.21 It should be noted that the future of the WTO has also appeared to be precarious in recent years, and the Trump administration for a time effectively rendered the body inoperable by refusing to nominate a new member of its appeal panel. The WTO is not an all powerful body, and we should have confidence in our ability to make a convincing case for change.
- 4.22 While GMB's direct power to influence already-signed international treaties may be limited, our prospects are much stronger if we work through the wider labour

movement and our international affiliates. If this Special Report is adopted by Congress then GMB will have a mandate for campaigning in favour of a rules-based system of local content requirements to be adopted by the UK labour movement (including a future Labour Government) and amongst our international federations.

5. Strengthening the tools we have now

- 5.1 GMB has argued that, across a range of industries, Ministers and other parts of the public sector are failing to use the powers they have already to support jobs and good quality employment. This section of the report looks at some of the approaches that could be implemented now to secure and improve the quality of employment in the UK.

Defence procurement

- 5.2 It was recognised when current procurement rules were drawn up that the UK and other nations need to maintain strong sovereign defence manufacturing capabilities. For that reason, clear exemptions from competitive tendering requirements were written into EU and WTO rules.
- 5.3 The Ministry of Defence's own guidance makes it clear that the need to 'maintain national industrial capability' is a valid security interest for the purposes of invoking the exemptions from compulsory international tendering.^{xxxv} As the lead maritime union in the Confederation of Shipbuilding and Engineering Unions (CSEU), these protections are of great interest to GMB. On this unchallenged legal basis, for many years all Royal Navy and Royal Fleet Auxiliary orders were placed with UK yards.
- 5.4 Disgracefully, successive governments have gradually loosened their industrial policy and encouraged non-UK bidders to compete for warship contracts. Under the 2017 National Shipbuilding Strategy, only destroyers, frigates, and carriers were exempted from international competition.^{xxxvi} Orders for our ships were put out to overseas tender, despite the fact that internationally shipbuilding is characterised by closed markets and hidden (and sometimes overt) subsidies.
- 5.5 In 2012 a £550 million contract to build new tankers was awarded to South Korea's DSME, a company that has received heavy state support. The order was eventually completed late and over initial budget. The Ministry of Defence started an international competition for a £1.5 billion support ship order, before halting the competition in November 2019 following the prominent *Turning the Tide*^{xxxvii} campaign by GMB to secure a UK-build for those vessels, which is part of the wider Manufacturing Section *Making It* campaign for manufacturing jobs. Meanwhile, the future of the Appledore and Harland and Wolff yards has stood on a knife edge, and jobs have been lost at other yards.
- 5.6 In March 2021, the Ministry of Defence published a new Defence and Security Industrial Strategy which ended the previous policy of 'competition by default'. Under the new regime, it will be decided on a case-by-case basis whether contracts should be put out to

international tender, and Ministers will consider ‘where we need to sustain industrial capability onshore in the UK’ when making that decision.^{xxxviii} While this change represents a significant campaigning victory for GMB, it does not go far enough – and the continued lack of certainty over future orders will continue to damage investment.

- 5.7 GMB believes that as much defence spending as possible should be retained in the UK (particularly where the UK is not part of an international supply chain) and that there should be a guarantee that all Royal Navy and Royal Fleet Auxiliary orders will be placed in UK yards. This policy would benefit not just shipbuilding but the steel industry and the wider supply chain too. We secured a commitment to that end in the 2019 Labour Party manifesto, and we will continue to campaign to secure corresponding change in Westminster Government policy.
- 5.8 We also note with alarm the recent case of the UK’s development of 5G network infrastructure, where it was eventually decided that Huawei’s involvement must be withdrawn on security grounds. The decision to first engage and then ban Huawei will cause lengthy delays, and it could reportedly cost taxpayers’ billions.^{xxxix} GMB believes that the UK left itself exposed because it had failed to work with other countries to build up alternative providers. In such cases where it may not be practicable to establish a solely domestic provider, GMB calls on the UK to work with other nations to develop collaborative cross border supply chains that build on the example of Airbus, and for this model to be applied for building an alternative provider of telecommunication services.

Social value

- 5.9 Most procurement decisions hinge on the most economically advantageous tender criteria (or MEAT). This approach initially included a requirement that tenders would be assessed on the basis of the lowest price, but unions including GMB successfully secured an amendment to allow other factors to be considered in 2014. This approach has been criticised on the grounds that it failed to consider wider social and economic benefits, and leads to short-term decision making.
- 5.10 A second approach to procurement policy was introduced through the Public Services (Social Value) Act 2012. Under this legislation, most public bodies must consider ‘how what is proposed to be procured might improve the economic, social and environmental well-being of the relevant area.’
- 5.11 In practice, this means that a weighting can be given to factors that go beyond a narrow cost/benefit analysis. The range of measures that can be included are very wide. Examples of factors that could be included in an evaluation of social value include (and are not limited to):

Examples of social value considerations^{xl}

Category	Type of measure
Skills and employment	Workforce training and local employment (see below for more detail)

Diverse supply chains	Increased representation of under-represented people in employment, such as BAME and disabled workers
Taxation paid	Workforce taxation and national insurance payments (see below for more detail)
Gender pay gap	Action to narrow and eliminate the gender pay gap
Living wage	The Living Wage Foundation advises that payment of their real Living Wage rate can be included
Mental health	Bidders can be judged on their commitment to offering high quality mental health support for staff
Environmental sustainability	Commitments to energy efficiency measures and other sustainability measures
Safe supply chains	Assessing for modern slavery in supply chains

- 5.12 The Public Contracts Regulations 2015 go further and explicitly allow contracting authorities to incorporate social and environmental aspects into specifications, award criteria and contract conditions. This could include promoting innovation, employment and social inclusion, protection of the environment, energy efficiency, and combating climate change. The social value model was updated in late 2020 to explicitly allow factors relating to support for the economic recovery from Covid-19 to be taken into account.^{xli}
- 5.13 The Government says that contracts awarded under the social value should include a minimum weighting of 10 per cent.^{xlii} The LGA advises that assessment of social value should form between 10 per cent and 20 per cent of the evaluation of bids for contracts worth over £100,000.^{xliii}
- 5.14 GMB believes that the inclusion of social value in contract evaluation represents a potentially very valuable approach that could deliver more and better jobs in the UK. But the Government should go further. It should be mandatory for social value to be included in all public contracts above a certain value. ‘Good employer’ weightings should be a ringfenced requirement. The employment of a permanent workforce, with clear criteria for how that is defined, should be developed and promoted by government as part of social value. A 10 to 20 per cent weighting range is too low – all public contracts should have a social value weighting of at least a quarter.

Local Labour Agreements

- 5.15 Local labour clauses have a longstanding history in public procurement. ‘Local Labour in Construction’ requirements entered a number of Section 106 requirements on developers during the 1990s as concerns around skills shortages grew, especially areas of high unemployment. The Joseph Rowntree Foundation argued in 2000 that Local Labour in Construction ‘schemes can make a major contribution to ensuring that the future labour needs of the construction industry are met.’^{xliv}
- 5.16 A number of approaches have been developed to ensure that jobs can be guaranteed to be created in local areas, without violating EU principles of non-discrimination against

migrant workers or non-UK bidders, and to provide the appropriate rate for the job. It is also longstanding GMB policy to not discriminate against workers in the UK on the grounds of country of birth. Such agreements, done properly, will tend to have the effect of creating more jobs that are available for local people than would otherwise have been the case.

- 5.17 Over the last decade, such agreements have generally been assimilated into the social value framework. The UK Green Building Council advises that:^{xlv}

'Local Labour Agreements are a common example of a planning conditions that specify a group of social value outcomes (in this instance, those relating to jobs creation and skills development).'

- 5.18 GMB calls for Local Labour Agreements to be made standard practice across the public sector.

Protection for National and Local Agreements – the fair wages resolution

- 5.19 One of the key provisions of the International Labour Organisation is the ILO Convention 94 on Labour Clauses in Public Contracts, which was sometimes known as the fair wages resolution. The UK was a signatory to the convention until the Thatcher Government denounced it in 1982. To date, the UK remains the only country to have withdrawn from the convention.
- 5.20 The Convention requires that contracts awarded by central public authorities must include clauses that ensure that wages, hours of work, and other conditions of work are 'no less favourable' than those established for work of the same character in the trade or industry concerned, on the district where the work is carried out. In practice, this was a requirement that at least the core employments terms of the relevant national agreements (or, where applicable, local agreements) would apply, and it provided a considerable incentive for workers to campaign to extend collective bargaining.
- 5.21 GMB calls on a future Labour Government to re-join the ILO Convention 94, and when implementing the Convention in domestic law to provide for its extension to other public bodies, such as local authorities. This action would provide a ready-made framework for ensuring that the terms of the relevant national agreements would apply on projects such as local authority Waste to Energy plant contracts, which has long been a campaigning priority for our members in the engineering construction sector.

Tax and national insurance

- 5.22 Traditional procurement practices have ignored the returned taxation that flows to the Treasury when public contracts are awarded in the UK. This 'discount' to the public purse is lost when contracts are awarded overseas. According to estimates by the Royal United Services Institute, around a third of the cost of placing defence manufacturing orders in the UK is regained through tax and national insurance contributions.^{xlvi}

5.23 The 2019 update of Treasury's manual for public spending, which is sometimes known as the 'Green Book,' makes it clear that returned taxation can be included in public bodies' assessment of social value:

'Payments of tax and national insurance made from an employee's gross earnings are part of the output or value produced by the workforce ... and should be included where relevant in calculations of social value.'^{xlvii}

5.24 This provision turns many traditional procurement assumptions on their heads. If returned taxation was factored into procurement decisions then many more contracts would be retained in the UK, leading to the development of more stable supply chains and the reshoring of jobs. It would help provide a level playing field for UK suppliers who are undercut by competitors who enjoy hidden subsidies and other state support that artificially deflates their prices.

5.25 Taking account of returned taxation would aid working people in other areas. For example, analysis by the think tank IPPR which was sponsored by GMB found that more than 40 per cent of the cost of raising public sector pay is recouped by the Treasury, but Ministers do not take this factor into account when making pay setting decisions.^{xlviii}

5.26 Unfortunately, no examples are known of central government including returned taxation in procurement. This should be included as a standard feature of all major procurement decisions. GMB calls for urgent guidance to be issued on the need for returned taxation to be factored into government procurement decisions, and also for this approach to also be adopted by other public bodies, including local authorities.

5.27 GMB believes that the Government should undertake a full review of the benefits of placing contracts in the UK, and also how to account for the artificial barriers enjoyed by international competitors in some industries.

Working in social partnership

5.28 Under Welsh Labour, the Welsh Assembly Government has put social equality at the heart of its spending and procurement decisions, in sharp contrast to the approach of its Westminster equivalent. GMB has played a key role in supporting and shaping that agenda.

5.29 The Welsh Assembly Government has committed to bringing forward a Social Partnership Bill in response to the recommendations of the Fair Work Commission, which made a series of proposals for improving the quality of work in Wales.

5.30 GMB and other unions have already worked through the Workforce Partnership Council to help secure a number of important and distinguishing achievements, such as re-establishment of a two-tier code, repeal of the worst aspects of the Trade Union Act

2016, and reached an agreement on non-use of exploitative zero hours contracts.

- 5.31 The draft Bill includes clauses to establish a Social Partnership Council, putting social partnership arrangements on a statutory footing; place a duty on public bodies to work in social partnership and promote fair work goals; and require specified public bodies to produce a procurement strategy in line with statutory guidance.
- 5.32 The new legislation represents a new approach that – if passed - the GMB should monitor at a UK level and consider promoting more widely. We applaud GMB Wales and South West Region for working closely with Welsh Labour and demonstrating the difference that Labour in government can make, including in the field of procurement and spending, with trade unions around the table.

Supporting local supply chains

- 5.33 Local government has an important role to play in rebuilding fractured local economies. One of the most exiting examples of a council leading the way is in Preston, which has pioneered the growing international approach known as Community Wealth Building (CWB) in the UK. CWB seeks to build local economic resources and power in a way that is democratically accountable, including through procurement.
- 5.34 Under this model, as much spending as possible is retained in the local area. The argument is that this creates a virtuous circle, as money spent with local companies in the local area, leading to an employment multiplier effect. Before the CWB model was adopted, only 5 per cent of public spending in Preston was retained in the local area.
- 5.35 Preston pursued this model after 2010, when a major shopping centre investment fell through. Instead, the council decided that – in partnership with other local public bodies - it had to look to its own resources to regenerate its local economy. Under CWB, public bodies reduced barriers for local firms to bid and used a strong social value framework to retain spending in their local economy.
- 5.36 Consequently, spending with local firms increased from £38 million to £111 million.^{xlix} Preston went from being recorded as the 20th most deprived area in 2007 to the 60th in 2015. According to a 2019 assessment by the think tank Demos, '*neither EU treaty principles nor its specific procurement directives (or, for that matter, the World Trade Association's (WTO) plurilateral Government Procurement Agreement) are violated*' by this approach.^l
- 5.37 GMB believes that the Community Wealth Building approach pioneered in Preston is a promising model for other areas to consider adapting to their own circumstances, and that the UK Government should evaluate, support, and promote this approach including through financial support where required.

Assessing Equality Impacts

- 5.38 Under the Public Sector Equality Duty of the Equality Act, all public bodies have a duty to have due regard to the need ‘eliminate discrimination, harassment, victimisation’ faced by people with relevant protected characteristics (including race, sex, and disability), and ‘advance equality of opportunity.’ This provision applies to procurement as much as any other area of policy, but contracting authorities frequently do not take equality impacts into consideration when awarding contracts. Public authorities that do not comply with the Duty open themselves up to the risk of legal challenge.
- 5.39 One example – as raised by GMB members at Congress 2021 – is the replacement of specialist Black, Asian and Minority Ethnic communities’ refuge services during the pandemic on cost grounds (Motion 139) by more general providers, who do not provide the same standard of expertise and service. By contrast, the EHRC advises that compliance with the Public Sector Equality Duty can lead to ‘increased value for money’ because contracts will be better matched to users’ needs.^{li}
- 5.40 GMB calls on all public authorities to integrate the Public Sector Equality Duty into each stage of the procurement process, to conduct meaningful Equality Impact Assessments when making procurement decisions, and for equality requirements to be advertised in Invitations to Tender.

6. Campaigning for change

- 6.1 The UK’s economy has been profoundly changed by decades of deindustrialisation. Some communities have never recovered, and policies that fail to support UK industry have fuelled mistrust in the political system.
- 6.2 GMB has campaigned at every level of political power in the UK and Europe for an active industrial strategy that supports high quality employment and the reshoring of jobs. We have had notable successes, such as winning widespread support for our call for all Royal Navy and Royal Fleet Auxiliary ships to be built in the UK (including amongst the Conservative-majority Defence Select Committee). But we know we can do more.
- 6.3 This report is put forward for consideration by Congress at another time of fundamental change. The UK has left the EU and the Government is designing a new system for supporting industry outside of EU rules on subsidies and state aid. Whitehall is drawing up new plans for its approach to procurement policies. For the first time, there is an administration in the White House that is committed to reforming international rules that hold back our ability to support the growth of critical industries. Now is the time to set out our stall.
- 6.4 GMB has prepared a practical Public Procurement Manifesto for use in campaigning and adoption by public bodies, which is included as an appendix to this report, and which summarises many of the key recommendations

6.5 We ask that Congress supports this report and the manifesto, and provides GMB with a clear mandate for influencing those decisions.

6.6 There is no single action that will bring back the jobs we lost. But we believe that a combination of new policies could make a significant difference to the quantity and the quality of the jobs in the UK.

In summary, this report sets out a GMB position that calls for the following demands to be adopted:

- A national programme of insourcing in pursuit of public services that are delivered by the public sector and in the public interest.
- UK Government spending plans should address national and regional funding inequalities, and bring overall public spending in line with comparable European countries.
- Post Brexit regional funding plans must match and then exceed current EU funding levels.
- There must be no loss of autonomy for the devolved administrations under new trade deals or public subsidy, procurement or spending regimes.
- A full and independent inquiry into procurement scandals and cronyism in public contracting during the pandemic.
- GMB supports the introduction of a rules-based local contents requirements system to be introduced, and for the GMB to argue for this through its domestic and international federations.
- Public reporting of UK content should be introduced as a mandatory feature of all public contracts above an appropriate threshold.
- In line with GMB's *Turning the Tide* campaign, the defence procurement exemptions from international competition should be much more widely used, including a guarantee that all Royal Navy and Royal Fleet Auxiliary vessels will be built in UK yards.
- The social value framework should be compulsory for all public contracts above an appropriate value, with 'good employer' weightings as a ringfenced requirement, and assessment of social value should make up at least a quarter of the weighting for all public tendering decisions above the value threshold.

- Local Labour Agreements should be standard practice across the public sector, within the social value framework.
- The UK should re-join the ILO Convention 94 (the 'fair wages resolution') to promote a level playing field on pay and to extend the reach of collective agreements through central government procurement, and for this approach to be extended to other public bodies.
- The taxation and national insurance contributions returned by the UK workforce to the Exchequer should be factored into all major public spending decisions.
- We support GMB and Welsh Labour's work to bring forward a Social Partnership Bill, which should be monitored as a possible model for implementation at a UK level.
- We believe the Preston Community Wealth Building model is a promising example of procurement and spending policies being used to secure good quality work, and we call on the UK Government to evaluate, support, and promote this approach more widely.
- We call on public authorities to conduct meaningful Equality Impact Assessments when tendering and to integrate the Public Sector Equality Duty into each stage of the procurement process.

Appendix: GMB Public Procurement Manifesto

‘Public contracting that works for people’

GMB believes that public money, *our* money as taxpayers, should be spent to the benefit of people and communities across the UK. Public spending is a vital tool for ensuring a successful and sustainable post-pandemic post EU exit recovery. Its importance cannot be underestimated in protecting and promoting jobs, pay and conditions, trade union access and collective bargaining, training, addressing inequalities, advancing social and environmental objectives, economic development and community wealth building.

Time for a step change

The UK is reviewing public contracting legislation following our exit from the EU. This presents the opportunity for government, devolved administrations and contracting authorities across the UK to develop public contracting policy and rules that put people and communities at their heart rather than lowest price and profit. The priority objective for future public contracting should be to ensure every penny spent delivers benefit locally, regionally and nationally.

Our members make goods, provide services and works that supply public authorities at every level. We believe we have an important voice to be heard in the reform and delivery of public contracting and public spending policy at central, and devolved government level as well as regional and local contracting authority level.

GMB believes that the Social Partnership approach being developed by the Welsh Government together with trade unions should be the model for all levels of contracting authorities.

Promoting In-house provision and insourcing

GMB believes that the most effective model of delivering public services is direct (in-house) provision. It is time to reassert and promote the legitimate right of contracting authorities to deliver public services and provision in-house and give recognition to the benefits this delivers in providing quality public services free from marketisation and outsourcing. Public, health and social services should be clearly and fully carved out from the scope of all UK trade agreements with global partners.

Putting people first

Where contracting authorities decide to go out to contract, GMB urges contracting authorities to move away from lowest price award and ensure public money delivers positive and progressive benefits for people across communities, including:

- generating good secure jobs, skills development, training and apprenticeships
- promoting collective agreements and access for trade unions, to develop fair pay, safe workplaces and good working conditions
- developing local, regional and national supply capacity across key products and services

- ensuring ethical supply chains, and strengthening control and liabilities on employment standards in sub-contracting chains
- addressing inequality in communities and society, and promoting community wealth building and well-being to level up on sustainable economic development
- promoting equality and equal treatment across all strands
- advancing environmental protection and addressing climate change
- promoting the highest levels of food standards and safety across all health, social, education and wider public service functions and establish the principle of the right to food.
- protecting and promoting devolved competence and local and regional powers on public spending.

Delivering Change

GMB believes positive and progressive change must be delivered at all levels of contracting authorities. We call on:

Central Government to:

- Ensure that any bodies or structures overseeing public procurement policy and delivery are based on a social partnership approach with full involvement of trade unions
- Move from lowest price contracting and develop maximum scope to include social and employment objectives in public contracting priorities in line with GMBs people-centred principles above
- Protect and promote sovereign capacity in security and defence spending and support wider domestic manufacturing capacity
- Promote in-house provision in public spending over outsourcing and marketisation
- Respect and support the powers of the devolved nations in pursuing their own progressive public contracting policies
- Ensure that the powers of the devolved nations in this area are not undermined or compromised in future UK trade negotiations and agreements, and that devolved parliaments and assemblies are fully involved and consulted in the development of such agreements
- Push for progressive reform of WTO, Government Procurement Agreement and global trade policy to move away from polarised views on trade policy in favour of a common-sense balance to global trade which puts people before profit, ensures compliance with employment rights, labour standards, human rights, protects public and health services with carve outs, and accepts the legitimacy of local contract clauses and environmental and climate change priorities.

Devolved Governments to:

- Develop a formal social partnership approach to development of public contracting policy and delivery with full involvement of trade unions
- Move from lowest price contracting and develop maximum scope to include social and employment objectives in public contracting priorities in line with GMBs people-centred principles above
- Protect and promote domestic capacity in manufacturing and services
- Promote in-house provision in public spending over outsourcing and marketisation

- Ensure devolved powers in public contracting are not undermined by central Government policy or through trade negotiations and agreements

Local and other public authorities to:

- Develop a formal social partnership approach to development of public contracting policy and delivery with full involvement of trade unions
- Move from lowest price contracting and develop maximum scope to include social and employment objectives in public contracting priorities in line with GMBs people-centred principles above
- Protect and promote local and regional capacity in manufacturing and services
- Promote in-house provision in public spending over outsourcing and marketisation

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